

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
(NASHVILLE)**

<b>IN RE:</b>	)	
<b>EARL L. LUSK, JR. AND</b>	)	<b>CASE NO.: 3:21-bk-02676</b>
<b>BATHSHEBA L. LUSK,</b>	)	<b>CHAPTER 7</b>
<b>DEBTORS.</b>	)	<b>JUDGE RANDAL S. MASHBURN</b>
	)	
<b>EVA M. LEMEH, TRUSTEE,</b>	)	
<b>PLAINTIFF,</b>	)	
	)	
<b>v.</b>	)	<b>ADV. PROC. NO.: 3:21-ap-90169</b>
	)	
<b>VILLAGE CAPITAL &amp; INVESTMENT,</b>	)	
<b>LLC,</b>	)	
<b>DEFENDANT.</b>	)	

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**THE DEADLINE FOR FILING A TIMELY RESPONSE IS: February 14, 2022**  
**IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: February 22, 2022 at**  
**9:30 a.m., Courtroom One, Customs House, 701 Broadway, Nashville, TN 37203**

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**RESPONSE TO MOTION FOR DEFAULT JUDGMENT**

COMES NOW, Secured Creditor, Village Capital & Investment, LLC (hereinafter “Creditor”), and files this written response to Plaintiff’s Motion for Default Judgment and as grounds therefor states:

1. Secured Creditor holds a Claim against Plaintiff’s property located at **1036 Barrow Court, Murfreesboro, TN 37130** (hereinafter the “Property”).

2. On August 31, 2021, Earl L. Lusk, Jr. and Bathsheba L. Lusk (hereinafter “Debtors”) filed a voluntary petition under Chapter 7 of Bankruptcy Code, thereby initiating the above-styled bankruptcy proceeding. Eva M. Lemeh is the duly appointed and acting Chapter 7 Trustee and is the Plaintiff in this action.

3. Creditor was not properly notified of the Chapter 7 Bankruptcy Petition filed by Debtors, and as such did not have any knowledge of the bankruptcy filing on August 31, 2021.

4. Debtors and non-filing Co-Debtor, Jaylan Lusk, executed and delivered or are otherwise obligated with respect to that certain Note, (hereinafter “Note”) in the original amount of \$291,506.00. Creditor is an entity entitled to enforce the Note.

5. Pursuant to a recorded Deed of Trust, all obligations of Debtors and non-filing Co-Debtor under and with respect to the Note and the Deed of Trust are secured by the Property and any other collateral described in the Deed of Trust.

6. Documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest are attached to the Proof of Claim filed on February 14, 2022.

7. Plaintiff filed this Adversary on December 13, 2021 and the subsequent Motion for Default on January 21, 2022. The initial deadline to response to the Motion for Default was extended per the NextGen CM/ECF Administrative Order to February 14, 2022.

8. Counsel for Creditor has communicated with both Plaintiff’s counsel and Debtors’ counsel about the underlying adversary and other issues with the associated bankruptcy case.

9. Creditor believes that a resolution is possible between itself, Plaintiff and Debtors and Creditor hereby files this response to prevent a default judgment and to allow additional time for a resolution to be reached.

10. Creditor reserves the right to supplement its response.

WHEREFORE, Creditor prays that the Court will enter an order denying Plaintiff’s Motion for Default Judgment and for all other just and proper relief to which it may be entitled.

Respectfully submitted,

/s/ Joshua I. Goldman

Joshua I. Goldman, Esq

Tennessee Bar #035733

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*Counsel for Creditor*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished to the parties on the attached Service List by electronic notice and/or by First Class U.S. Mail on this the 14<sup>th</sup> day of February 2022:

Respectfully submitted,

/s/ Joshua I. Goldman

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*Counsel for Creditor*

**SERVICE LIST (CASE NO. 3:21-ap-90169)**

*DEBTORS*

EARL L. LUSK, JR.  
BATHSHEBA L LUSK  
1036 BARROW COURT  
MURFREESBORO, TN 37130

*ATTORNEY FOR DEBTOR*

TIM W. SMITH  
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MURFREESBORO, TN 37133

*TRUSTEE*

EVA M LEMEH  
4300 KINGS LANE  
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*ATTORNEY FOR TRUSTEE*

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*U.S. TRUSTEE*

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